

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MONSANTO COMPANY and
MONSANTO TECHNOLOGY LLC,

Plaintiffs,

vs.

E.I. DUPONT DE NEMOURS AND
COMPANY and
PIONEER HI-BRED INTERNATIONAL,
INC.,

Defendants.

Case No. 4:09-cv-00686-ERW

EXPEDITED HEARING REQUESTED

**PLAINTIFFS' EMERGENCY MOTION REGARDING DEFENDANTS'
VIOLATION OF THE PROTECTIVE ORDER AND OTHER COURT ORDERS,
AND REQUEST FOR IMMEDIATE/EXPEDITED HEARING**

Plaintiffs Monsanto Company and Monsanto Technology LLC (collectively "Monsanto"), respectfully move this Court for the entry of an order sanctioning Defendants, E.I. du Pont de Nemours and Company ("DuPont") and Pioneer Hi-Bred International, Inc. ("Pioneer") (collectively "Defendants"), for violating the Protective Order and other Court Orders prohibiting the parties from publicizing the economic terms of the confidential Soybean License Agreement at issue in this case. In support of this Motion, Monsanto incorporates by reference its memorandum in support as if fully stated herein.

Monsanto also respectfully requests that the Court hold an emergency in-court hearing on Tuesday, October 12 or as soon thereafter as possible. Immediate review is necessary to stop the irreparable harm that Monsanto is currently suffering due to Defendants' one-sided and self-serving publication of highly confidential economic terms. Since this case was filed in May 2009, Defendants have repeatedly litigated their antitrust claims in the press, instead of

exclusively in this Court. On October 5, 2010, DuPont's senior vice president and general counsel, Thomas Sager, was quoted in a newspaper article in which he disclosed the most crucial economic terms of the Soybean License Agreement. Defendants made this unauthorized disclosure to further Defendants' overall strategy of turning farmers, the federal government, and financial markets against Monsanto.

Defendants' violation of this Court's Orders has prejudiced, and continues to severely prejudice, Monsanto. Because the terms of the Soybean License Agreement are confidential, and because this Court has previously ordered on several occasions that the economic terms of the agreement cannot be made public, Monsanto is faced with the situation that it cannot respond to Defendants' public attacks or inquiries from investment analysts. Defendants have been using this Court's Orders and the confidentiality provisions of the License Agreements as both a sword and shield. Over the last several months, for example, Defendants have stated repeatedly in pleadings and press statements that Monsanto is misusing its license position with respect to its patented soybean technology. Monsanto has been unable to respond to such allegations, despite requests for permission to disclose the financial terms of the Soybean License Agreement. Defendants should not be permitted to violate Court Orders while leaving Monsanto powerless to level the playing field in the public debate that Defendants decided to initiate.

WHEREFORE, Monsanto respectfully requests the Court hold an immediate hearing, grant Monsanto's motion, sanction Defendants, authorize Monsanto to publicize the financial terms of the Soybean License Agreement, permit Monsanto to depose Thomas Sager to discover the full extent of his breach of the confidentiality provision in the Soybean License Agreement, and award Monsanto its attorneys' fees for bringing this Motion, as well as any other remedies deemed appropriate by the Court.

Dated: October 8, 2010

Respectfully submitted,

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By: /s/ Joseph P. Conran.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 8th day of October, 2010, the foregoing was filed electronically with the Clerk of the Court for the United States District Court for the Eastern District of Missouri, Eastern Division, and was served by operation of that Court's electronic filing system, upon the following:

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